

# Subcommittee on Federal Lands

Tom McClintock, Chairman  
Hearing Memorandum

December 11, 2017

**To:** All Subcommittee on Federal Lands Members

**From:** Majority Committee Staff – Brandon Miller  
Subcommittee Federal Lands (x 6-7736)

**Hearing:** Legislative hearing on a **H.R. 4558 (Rep. Chris Stewart)**, To provide greater conservation, recreation, economic development and local management of Federal lands in Garfield and Kane Counties, Utah.  
**December 14th, 2017 at 9:30 A.M.; 1324 Longworth HOB**

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## **H.R. 4558, “Grand Staircase Escalante Enhancement Act”**

### **Bill Summary**

H.R. 4558 introduced by Rep. Chris Stewart(R-UT), the “Grand Staircase Escalante Enhancement Act” creates Utah’s sixth national park, the Escalante Canyons National Park. This legislation also transfers “Hole in the Rock Road,” a historically important Mormon pioneer trail, to the state of Utah. H.R. 4558 also creates a management council comprised of local officials to draft and oversee a management plan for the new monuments and National Park. Finally, this bill creates three new separate and distinct national monuments; Grand Staircase, Escalante Canyons, and Kaiparowits.

### **Invited Witnesses (in alphabetical order):**

#### **PANEL I**

*The Honorable Chris Stewart*  
Member of Congress, Utah’s 2<sup>nd</sup> District

#### **PANEL II**

*Ms. Susan Hand*  
General Manager and Outdoor Goods Buyer  
Willow Canyon Outdoor  
Kanab, UT

*The Honorable Mike Leavitt*  
Former Governor  
State of Utah  
Salt Lake City, UT

*The Honorable Leland Pollock*  
Commission Chairperson  
Board of Commissioners  
Garfield County, Utah  
Panguitch, UT

*Ms. Vicki Varela*  
Managing Director  
Utah Office of Tourism, Film and Global Branding  
Salt Lake City, UT

## **Background**

On September 18, 1996, during the waning months of his first term, President Clinton designated 1.7 million acres in Utah as the Grand Staircase-Escalante National Monument during a ceremony on the South Rim of the Grand Canyon. After generally consolidating national monuments under the National Park Service, Grand Staircase-Escalante represented the first BLM-managed national monument.<sup>1</sup>

The designation immediately kicked off a massive controversy in the State of Utah. The Governor, members of the Congressional delegation, and residents of Utah all expressed outrage at the lack of prior consultation or warning of the designation. Utahans previously worked on proposals to protect the land and were stunned when the designation happened and uprooted those plans. For Utahans, their unhappiness was not a result of not wanting to preserve the environment; “on the contrary, they [understood] that their state is worthy of preservation and [took] measures to assure that proper regions of their state have necessary protection. However, President Clinton’s unilateral designation of Grand Staircase as a national monument severely conflicted with many of the uses that national, state, and local governments had planned for the land.”<sup>2</sup> The Governor at the time, Mike Leavitt, testified before Congress that:

“At two o’clock eastern time, the President stood at the north rim of the Grand Canyon to announce the creation of the Grand Staircase-Escalante National Monument and its 1.7 million acre expanse of Utah’s Garfield and Kane Counties. As has been mentioned, no Member of Congress, no local official, or had the Governor ever been consulted, nor had the public. As the Governor, I had not seen a map. I had not read the proclamation, or, for that matter, was I even invited. This isn’t about courtesy, it is about process. It is about public trust. A major land decision, perhaps the biggest land decision that has been made or will be made in the next two decades, had occurred. Obviously, this is not the way public land decisions should or were ever intended to be made.”<sup>3</sup>

According to Senator Orrin Hatch, the Administration assured him “in a meeting just a week prior to the President’s announcement that the leaks concerning a designation of a monument in Utah were not true, and that no such action was contemplated. If it were, we were told, the Utah Delegation would be fully apprised and consulted.”<sup>4</sup> Prior to the designation, the

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<sup>1</sup> NPS, Archeology Program, <https://www.nps.gov/archeology/sites/antiquities/MonumentsList.htm>.

<sup>2</sup> Eric C. Rusnak, “The Straw that Broke the Camel’s Back? Grand Staircase-Escalante National Monument Antiquates the Antiquities Act”, *Ohio State Law Journal* 64:669, p. 703.

<sup>3</sup> Committee on Resources Subcommittee on National Parks and Public Lands, “Establishing the Grand Staircase-Escalante National Monument”, Serial No. 105-20, pg. 23-24.

<sup>4</sup> *Ibid.* Pg. 12.

Clinton Administration held no town halls, public meetings, or public comment sessions in Utah and did not receive any input from local stakeholders or land managers in the area. Perhaps most egregiously, the Administration only kept the designation a secret from members of *Utah's* Congressional delegation. CEQ reached out to former Senator Harry Reid (D-NV), Governor Roy Romer (D-CO), Rep. Bill Richardson (D-NM), and Governor Bob Miller (D-NV) to get feedback on the proposal and even questioned if “there [were] Democratic candidates [they] should alert” about the designation.<sup>5</sup> Over a week before the designation, CEQ staff notified reporters at the Washington Post about the designation while simultaneously assuring the Utah delegation that no decision had been made yet.<sup>6</sup>

The Clinton administration clearly established the National Monument for political, not archeological, purposes. According to correspondence obtained by the Committee, former Clinton CEQ Chair, Katie McGinty, expressed hesitation about the designation and said, “I’m [sic] increasingly of the view that we should just drop these Utah [sic] ideas. we [sic] do not really know how the enviros will react and I do think there is a danger of “abuse” of the withdraw/antiquities authorities especially because these lands are not really endangered.”<sup>7</sup> She also wrote to the President that the action “would help overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.”<sup>8</sup>

The designation of the Grand Staircase Escalante National Monument resulted in devastating consequences for the surrounding communities. In a study conducted by Utah State University, researchers found that the reduction in grazing alone resulted in a loss of 81 jobs and \$9,101,801 in economic input yearly in Garfield and Kane Counties.<sup>9</sup> However, the largest losses in economic output and jobs came from the reduced potential for energy and minerals development. According to a study from the Utah Geological Survey, the value of potential energy mineral resources in Grand Staircase-Escalante totals between **\$223 billion and \$330 billion**, including \$221-321 billion of coal, \$2 billion-\$17.5 billion of coal-bed gas, \$20 million-\$1.1 billion of petroleum, and at least \$4.5 million of other minerals.<sup>10</sup> This amounts to an estimated 62 billion tons of coal, 2.6-10.5 trillion cubic feet of methane, and 270 million barrels of oil.<sup>11</sup> At the time of the designation, companies including Andalex, PacifiCorp, and Conoco Oil, had 89 oil and gas leases covering 137,700 acres and 22 coal leases covering 59,100 acres.<sup>12</sup> The National Monument directly prevented the creation of a planned coal mine, costing the area 1,100 jobs.<sup>13</sup> The lost royalties impacted every level of government, with Conoco estimating that the development of a 150 million barrel oil field would have resulted in \$864 million in royalties,

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<sup>5</sup> Committee on Resources, “Behind Closed Doors: The Abuse of Trust and Discretion in the Establishment of the Grand Staircase-Escalante National Monument”, Report 105-s1, 11/07/97, pg. 5.

<sup>6</sup> Ibid. Pg. 6.

<sup>7</sup> Committee on Resources, “Monumental Abuse: The Clinton Administration’s Campaign of Misinformation in the Establishment of the Grand Staircase-Escalante National Monument”, House Report 105-824.

<sup>8</sup> Ibid. “Behind Closed Doors: The Abuse of Trust and Discretion in the Establishment of the Grand Staircase-Escalante National Monument”, pg. 19.

<sup>9</sup> American Stewards – analyzing data from Utah State University Extension and Economics Associations of Utah, Inc., “Economic and Cultural Report on Livestock Grazing in The Grand Staircase Escalante National Monument to The Kane County Board of Commissioners.” <https://www.americanstewards.us/wp-content/uploads/2015/07/Economic-and-Cultural-Report-on-Grazing-on-The-Grand-Staircase.pdf>

<sup>10</sup> M. Lee Allison et al., “A Preliminary Assessment of Energy and Mineral Resources within the Grand Staircase - Escalante National Monument”, Utah Geological Survey, January 1997, <http://files.geology.utah.gov/online/c/c-93/index.htm>.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid. “The Straw that Broke the Camel’s Back? Grand Staircase-Escalante National Monument Antiquates the Antiquities Act”, pg. 704-5. Janice Fried, “The Grand Staircase-Escalante National Monument: A Case Study in Western Land Management”, 17 Va. Env’tl. L.J. 477 1997-1998, pg. 489.

<sup>13</sup> AP, “Strong emotions reignited on 20th anniversary of Utah monument”, CBS News, 09/18/16, <http://www.cbsnews.com/news/strong-emotions-20th-anniversary-utah-grand-staircase-escalante-national-monument/>

including \$313 million for the state, \$33 million for Utah School and Institutional Trust Lands Administration (SITLA), and \$94 million for the counties.<sup>14</sup>

One of the most controversial aspects of the designation involved the inclusion of roughly 176,000 acres of SITLA land in the exterior boundaries of the National Monument. The White House was not aware of the existence of SITLA land “or their importance” and needed an explanation of their benefits to schoolchildren the day before the National Monument’s designation.<sup>15</sup> According to the Utah Geological Survey, “the value of the recoverable coal on School Trust lands [was] at least \$17 billion but could [have been] \$25 billion or more” with potential royalties worth \$1.4-\$2 billion.<sup>16</sup> Years later, in order to compensate the State of Utah, SITLA received 145,000 acres of land outside of the National Monument and a \$50 million cash equalization payment.<sup>17</sup>

Over 20 years after the designation, the National Monument still creates serious problems for the local communities. On June 22, 2015, Garfield County Commissioners declared a state of emergency due to declining enrollment in the County’s schools.<sup>18</sup> Since the designation, enrollment in the Garfield School District dropped by 300 students and the student body in Escalante High School declined by two-thirds.<sup>19</sup> In the resolution declaring the state of emergency, Garfield County cited the National Monument and federal land management policies as the reason for “virtually eliminat[ing] historic social and economic stability in Garfield County’s communities and families.”<sup>20</sup> Management of the National Monument also continues to present challenges to BLM and local communities. A 2014 Manager’s Report highlighted the management difficulties at the National Monument by stating, “Increased backcountry visitor impacts include increased graffiti, human waste issues, water quality concerns and parking congestion.”<sup>21</sup> According to BLM, over a 10 year period, Grand Staircase-Escalante experienced 78 separate incidents of vandalism, theft, or damage and destruction of archeological and natural resources.<sup>22</sup> In 2015 alone, rangers removed more than 1,234 square feet of graffiti.<sup>23</sup> In comparison, before its designation as a National Monument, Bears Ears only experienced 1 incident of vandalism over 5 years.<sup>24</sup> On February 17, 2017, Governor Herbert signed H.C.R. 12, a bipartisan state law urging a federal reduction in the size of Grand Staircase-Escalante.<sup>25</sup>

On December 4, 2017, following review by the Department of the Interior of the 27 monuments established since 1996, President Trump signed a proclamation to reduce Grand Staircase-Escalante from 1.9 million acres to 1 million.<sup>26</sup> Replacing the Grand Staircase-

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<sup>14</sup> Karl Cates, “Plans for Escalante Wells Attacked”, Deseret News, 02/12/97, <http://www.deseretnews.com/article/542880/PLANS-FOR-ESCALANTE-WELLS-ATTACKED.html>.

<sup>15</sup> Ibid. “Establishing the Grand Staircase-Escalante National Monument”, p. 23.

<sup>16</sup> Ibid. “A Preliminary Assessment of Energy and Mineral Resources within the Grand Staircase - Escalante National Monument”

<sup>17</sup> Brian Maffly, “Utah not ready to sign off on a Bears Ears lands swap”, The Salt Lake Tribune, 01/20/17, <http://www.sltrib.com/home/4835113-155/utah-not-ready-to-sign-off>.

<sup>18</sup> McKeller, Katie, “Garfield County issues unique state of emergency”, Deseret News, 06/22/15, <http://www.deseretnews.com/article/865631229/Garfield-County-issues-unique-state-of-emergency.html>

<sup>19</sup> McKeller, Katie, “Does Garfield County have a future? Student numbers tell troubled story”, Deseret News, 06/09/15, <http://www.deseretnews.com/article/865630428/Does-Garfield-County-have-a-future-Student-numbers-tell-troubled-story.html?pg=all>

<sup>20</sup> Garfield County Board of Commissioners, Resolution 2015-3, 06/22/15, <http://garfield.utah.gov/wp-content/uploads/2015/07/commission-meeting-6-22-2015.pdf>

<sup>21</sup> BLM, Grand Staircase-Escalante Manager’s Annual Report, 2014, [https://www.blm.gov/nlcs\\_web/sites/style/medialib/blm/ut/grand\\_staircase-escalante/nlcs\\_mgrs\\_report.Par.61629.File.dat/GSENM\\_Manager\\_Report\\_FY2014\\_draft1-25-2015.pdf](https://www.blm.gov/nlcs_web/sites/style/medialib/blm/ut/grand_staircase-escalante/nlcs_mgrs_report.Par.61629.File.dat/GSENM_Manager_Report_FY2014_draft1-25-2015.pdf) pg 46

<sup>22</sup> Information obtained by the Congressional Research Service and provided by the Bureau of Land Management.

<sup>23</sup> Fox 13 News, “Rangers investigate vandalism at Grand Staircase-Escalante National Monument”, 04/04/16, <http://fox13now.com/2016/04/04/rangers-investigate-vandalism-at-grand-staircase-escalante-national-monument/>.

<sup>24</sup> Ibid. Rebecca Benally, Subcommittee on Federal Lands Hearing on H.R. 5780.

<sup>25</sup> Benjamin Wood, “Utah Senate approves call to shrink Grand Staircase-Escalante National Monument”, The Salt Lake Tribune, 02/08/17, <http://www.sltrib.com/home/4919019-155/utah-senate-approves-call-to-shrink>.

<sup>26</sup> Lee Davidson and Thomas Burr, “Trump greeted by cheers and protests as he visits Utah, trims 2 million acres from Bears Eas and Grand Staircase-Escalante national monuments”, The Salt Lake Tribune, 02/08/17, <http://www.sltrib.com/news/politics/2017/12/04/trump-is-coming-to-utah-to-perform-dramatic-feat-monday-make-big-national-monuments-mostly-disappear/>

Escalante with three smaller monuments: Grand Staircase at 209,933 acres; Kaiparowits; and Escalante.<sup>27</sup>

**Section by Section**

Section 1. Short Title

Section 2. Table of Contents

Section 3. Definitions.

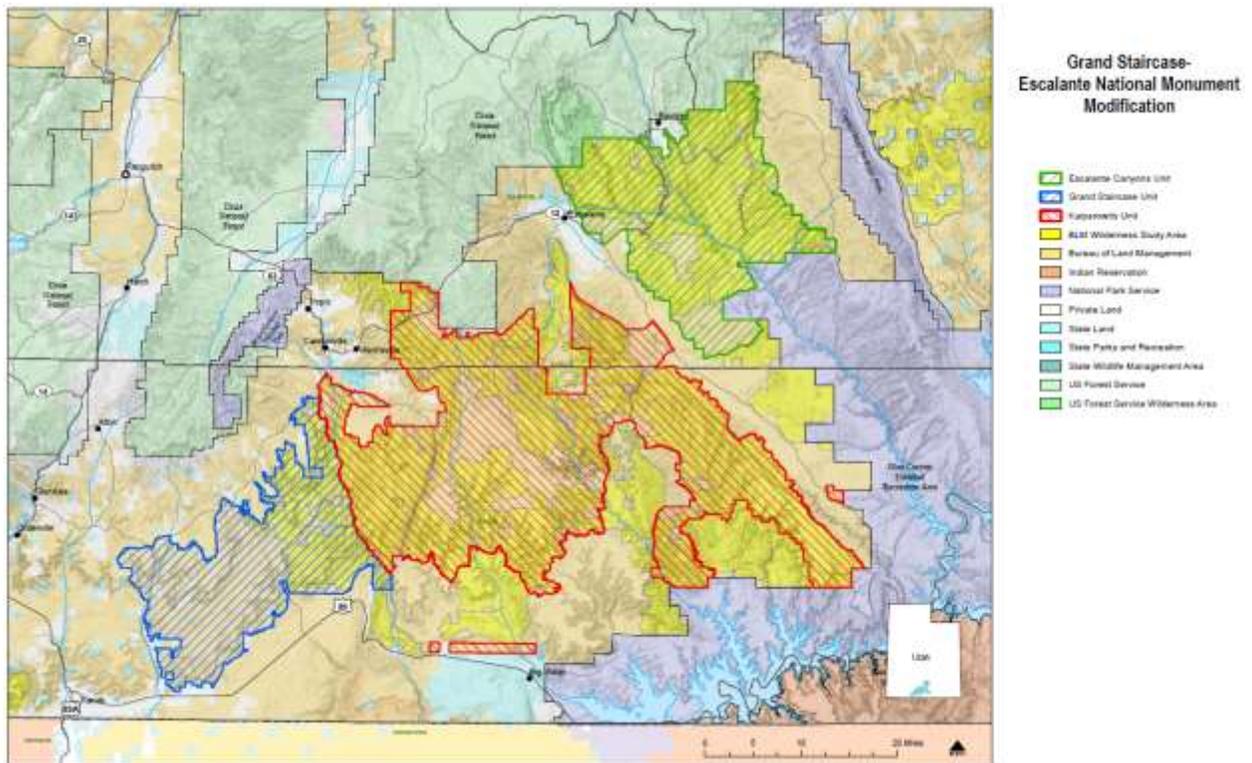
Section 4. Establishment of Escalante Canyons National Park and Preserve.

Section 5. Withdrawals

Withdraws the land within the Escalante Canyons National Park from

- (1) Entry, appropriation or disposal
- (2) Mining operations
- (3) Mineral or geothermal leasing

Section 6. Map and Legal Description



Map 1: Grand Stair Escalante National Monument Modification, Department of the Interior

<sup>27</sup> Ibid.

#### Section 7. Grand Staircase National Monument

- (a) Establishes a new 211,983-acre monument.
- (b) The purpose of the monument is to preserve protect and enhance the monument's unique historic, scenic, and national resources, as well as the monument's unique recreation, hunting, and grazing.
- (c) Map

#### Section 8. Kaiparowits National Monument

- (a) Establishes a new 551,117-acre monument.
- (b) The purpose of the monument is to preserve protect and enhance the monument's unique historic, scenic, and national resources, as well as the monument's unique recreation, hunting, and grazing.

#### Section 9. Escalante National Monument

- (a) Establishes a new 243,241-acre monument.
- (b) The purpose of the monument is to preserve protect and enhance the monument's unique historic, scenic, and national resources, as well as the monument's unique recreation, hunting, and grazing.
- (c) Map

#### Section 10. Management Council

- (a) Establishes a management council for the new national park and national monuments.
- (b) Directs the council to develop and implement a management plan for the new national park and national monuments.
- (c) Membership
  - (1) One individual from Dept. of Interior
  - (2) Five individuals appointed by the President in consultation with the Utah Congressional delegation and the Governor.
    - (A) Two from Garfield County
    - (B) Two from Kane County
    - (C) One Utah State Legislator
  - (3) One at-large representative appointed by the President.
- (d) Prohibits federal employees from being members of the management council
- (e) Limits Council members to 5 year terms and prohibits members from serving over 3 consecutive terms.
- (f) Establishes the same process for filling vacancies as were laid out in the initial selection guidelines.
- (g) Establishes that members will serve without pay except for reasonable travel expenses.
- (h) Gives members the authority to select a Chair of the management council.
- (i) Gives the management council authority to request administrative assistance from Department of Interior or Agriculture federal employees.
- (j) Requires the management council to meet at least once per year.
- (k) Administration
  - a. Requires the management council to allow hunting, fishing and trapping within the Escalante Canyons National Park

- b. Requires the management council to allow grazing of domestic livestock within the Escalante Canyons National Park

Section 11. Federal Land Manager Adherence

Section 12. Clarification that nothing in this Act will affect the jurisdiction of the State of Utah with respect to fish, wildlife and predator management in the State.

Section 13. Restoration of Land Status

Restores land status to the lands excluded from the President's monument reservation and establishes that those lands be open to entry, location, selection, sale, or other disposition under public land laws and under laws relating to mineral and geothermal leasing and mining laws.

Section 14. Hole in the Rock Road

Conveys the Hole in the Rock Road to the State of Utah.

Section 15. Effect on Proclamations

States that any provision in this bill that is inconsistent with the President's Proclamation reducing the Grand Staircase-Escalante National Monument shall be null and void.

**Cost:**

The Congressional Budget Office has not completed a cost estimate of this bill at this time.

**Administration Position:**

The Administration's position is unknown at this time.

**Effect on Current Law (Ramseyer)**

None.